

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOHN L. DYE, JR.,

Petitioner,

-v-

Case No. 05-115

PHILLIP KINGSTON,

Respondent.

DECISION AND ORDER

John L. Dye, Jr. (“Dye”), who filed a petition for a writ of habeas corpus, sought to stay his petition in abeyance so that he can first pursue his unexhausted claims in Wisconsin state court. On August 28, 2007, the Court denied his request for a stay. Instead, the Court gave Dye the choice to either withdraw his unexhausted claims and proceed only on his exhausted claims, or to have his entire petition dismissed without prejudice so that he may first present his unexhausted claims in state court. Dye responded with a request to withdraw his entire habeas petition and have it dismissed without prejudice.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY
ORDERED THAT:**

Dye's Petition for a Writ of Habeas Corpus (Docket No. 1) is **DENIED**, without prejudice.

The clerk is directed to close this case accordingly.

Dated at Milwaukee, Wisconsin, this 3rd day of October, 2007.

SO ORDERED,

s/ Rudolph T. Randa

HON. RUDOLPH T. RANDA
Chief Judge